Preparatory Committee for the 1995 Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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LETTER DATED 23 JANUARY 1995 FROM THE REPRESENTATIVE OF INDONESIA ADDRESSED TO THE CHAIRMAN OF THE PREPARATORY COMMITTEE FOR THE 1995 CONFERENCE OF THE PARTIES TO THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

On behalf of the Group of Non-Aligned and Other States, I have the honour to transmit a working paper entitled "NPT extension of the Treaty on the Non-Proliferation of Nuclear Weapons: Options and Action Available", covering points of the utmost importance to the present session as well as to the 1995 Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, to be held in New York, from 17 April to 12 May 1995.

This however does not preclude any member of the Group from expressing on its own behalf views it may deem appropriate, relating to procedural and substantive matters to be dealt with during the fourth session of the Preparatory Committee as well as during the 1995 Conference.

It would be highly appreciated if the present letter and its annex could be included as an official document of the Preparatory Committee meeting and at the same time be made available to all States parties to the Treaty.

(Signed) Izhar IBRAHIM
Ambassador/Head of the Indonesian delegation

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ANNEX

Indonesia*: working paper on the extension of the Treaty on the Non-Proliferation of Nuclear Weapons: Options and Action Available

Introduction

1. The non-proliferation of nuclear weapons and their delivery vehicles in all its aspects is an issue of the highest priority in the field of disarmament and international security as envisaged in the final document of the Tenth Special Session of the General Assembly, the first special session on disarmament in 1978. The establishment of a genuine, truly universal and non-discriminatory nuclear non-proliferation regime will enhance the prospects of a better and more secure world free of nuclear weapons. Regional arrangements such as the 1959 Antarctic Treaty, the 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco), the 1985 Treaty of Rarotonga, the nearly completed instrument for Africa and others identified by the Final Document, particularly the establishment of a nuclear-weapon-free zone in the Middle East, constitute important steps towards the attainment of a nuclear-weapon-free planet.

2. In contrast to the treaties mentioned above which are of a permanent nature, the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the only multilateral instrument of its kind, entered into force in March 1970 for an initial period of 25 years. The transitional nature of the NPT makes it unique among disarmament treaties. It reflects the intention of the parties to ensure the fulfilment of the purposes set out in the preamble and the effective implementation of its provisions, especially those contained in article VI. To achieve this, the NPT provides not only for the possibility of periodic review conferences (art. VIII (3)) but, more importantly, for a conference to be convened 25 years after its entry into force "to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties" (art. X (2)).

3. The provisions of article X (2) have been the object of several different and even conflicting interpretations. The present working paper has been prepared as a contribution to the discussion on this subject in the Preparatory Committee for the 1995 Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

Options available

4. The contents of article X (2) make it clear that the parties are not asked to decide whether or not to extend the NPT but simply for how long. There are

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three extension options available to them: (a) indefinite; (b) an additional fixed period; or (c) additional fixed periods. Article X (2) further provides that the decision on these options "shall be taken by a majority of the Parties to the Treaty". At first glance, therefore, the choice Parties must make appears rather straightforward. One simply musters a majority of NPT parties in favour of one of the options and the case is closed.

Decision-making

5. The history of the NPT negotiations and of its four review conferences reveals, however, the great importance its parties attach not only to the effective implementation of its provisions, but to any and all decisions relating to the Treaty itself. This is borne out by the agreements reached on the convening of the review conferences and their decision-making process as contained in the rules of procedure. Over the past 20 years the rules of procedure of the review conferences did not preclude the possibility of voting. The rule of consensus has however been applied to all aspects, procedural and substantive alike, regarding the NPT.

6. It would thus appear that if the Parties have in the past insisted on the rule of consensus they would also wish to apply it when deciding on the extension of the NPT. This should be the point of departure of the extension decision process, while not precluding the possibility of voting.

Purpose of the 1995 Conference and its preparation

7. In seeking to preserve and strengthen the NPT, its parties should examine together the implementation of the Treaty's provisions and discuss how best to ensure the realization of its fundamental purposes - the non-proliferation of nuclear weapons and their ultimate elimination. And this will not be achieved through procedural debates or interminable an lengthy legal arguments. To reduce the 1995 Conference to a series of legal wrangles would only serve to undermine the Treaty itself.

8. In order that the 1995 Conference result in a strengthened and effectively verifiable NPT regime, its parties should be convinced that its provisions will be fully realized and implemented and that it continues to serve their national security interests and the universal adherence is ultimately ensured. The attainment of this goal is the principal purpose of the conference. Anything less will be most unsatisfactory.